

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BELINDA RAY,)	
Plaintiff,)	
)	
v.)	
)	CASE NO. 2:08-CV-757-WKW
MICHAEL DONLEY, SECRETARY,)	
DEPARTMENT OF THE AIR FORCE,)	
Defendant.)	January 7, 2010
)	

**PLAINTIFF'S MOTION IN OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE, TO DISMISS**

COMES NOW the Plaintiff Belinda Ray, and pursuant to this Court's Order, hereby Moves this Court to Deny Defendant's Motion for Summary Judgment or, in the Alternative, to Dismiss, filed December 18, 2009.

Ms. Ray can show that she is a civil service employee and, as such, can bring a Title VII case of race and/or gender discrimination to this Court. Additionally, Ms. Ray can show that she suffered discrimination, due to her race and/or gender, at the hands of her supervisors who are agents of the United States Air Force. As grounds and support of Plaintiffs' Opposition of Defendant's motion, Plaintiff presents the following:

- A. Plaintiff's Brief in Opposition to Defendant's Motion for Summary Judgment and Motion to Dismiss.
- B. Plaintiff Belinda Ray Deposition Excerpts.
- C. Affidavit of Belinda Ray, dated April 25, 2007, formerly ROI pp. 192 - 199 (8 pages).
- D. Affidavit of Belinda Ray, dated December 30, 2009 (3 pages).

- E. Affidavit of Colby Leathers, dated April 25, 2007, formerly ROI pp. 200 - 205 (6 pages).
- F. Affidavit of Colby Leathers, dated November 8, 2007, which was prepared in response to Plaintiff's Discovery Request prior to the EEOC hearing in this case.
- G. Affidavit of Joyce Smiley, dated April 25, 2007, formerly ROI pp. 237 - 239 (3 pages).
- H. Affidavit of Jo Ann Kaestner, dated April 25, 2007, formerly ROI pp. 240 - 242 (3 pages).
- I. Declaration Under Penalty of Perjury of Sara Butler, dated April 21, 2007 - formerly ROI pp. 247 - 251 (5 pages).
- J. Declaration of Sara Butler, dated January 4, 2010.
- K. Declaration Under Penalty of Perjury of Duane Lubbert, dated May 4, 2007 - formerly ROI pp. 251a - 251d (4 pages).
- L. Declaration of Duane Lubbert, dated January 2, 2010.
- M. Excerpts from EEOC Hearing Transcript (HT) Excerpts, dated April 24-25, 2008.
- PX (Plaintiff's Exhibit) 1 - Ms. Ray's Notification of Personnel Action, dated 1-6-2008, showing that she is a GS-1702-9.
- PX 2 - Ms. Ray's civilian Identification Card (2 pages).
- PX 3 - Ms. Ray's military Identification Card (2 pages).
- PX 4 - Ms. Ray's Department of Defense Civilian Leave and Earnings Statement.
- PX 5 - Ms. Ray's Defense Finance and Accounting Service Military Leave and Earnings Statement.
- PX 6 - E-mail from Captain Leathers to Colonel Forshey and Forshey to Colonel Underkofler, in which Underkofler approved the promotion of Mr. Parker and also Colonel Forshey asks Leathers to give Ms. Ray the non-promotion news the "next Sunday" all dated September 15, 2006 - formerly ROI Exh. 4 (3 pages).

- PX 7 - Air Force Reserve Command Instruction 36-114, dated August 10, 2001, Procedures on Air Reserve Technicians Who Lost Active Membership in the Reserve (2 pages).
- PX 8 - Air Force Candidate Referral Certificate - formerly Report of Investigation (ROI) pp. 110-114 (5 pages).
- PX 9 - Civilian Referral Brief for Belinda Ray - formerly ROI pp. 146-148 (3 pages)
- PX 10 - Memorandum from Duane Lubbert, dated 26 September 2006 - formerly ROI p. 169.
- PX 11 - Ms. Ray's 2006 Civilian Rating of Record, dated April 10, 2006 - formerly ROI p. 92. Also includes Performance Award and personal note from Colonel Underkofler (3 pages)
- PX 12 - Certification of Personnel Action, Roderick Parker, dated 10-15-2006 - formerly ROI p. 170.
- PX 13 - Questions and Scoring of Ms. Ray's Interview, also includes notes of interview - formerly ROI p. 163-165 (3 pages)
- PX 14 - Questions and Scoring of Mr. Parker's Interview, also includes notes of interview - formerly ROI p. 166-168 (3 pages)
- PX 15 - Ms. Ray's 2007 Civilian Rating of Record, dated April 10, 2006 - formerly ROI p. 92. Also includes Performance Award and personal note from Colonel Underkofler (3 pages)
- PX 16 - Comments by the Investigator from the Office of Complaint Investigations in the ROI. ROI pp. 17-19. (3 pages)
- PX 17 - Civilian Referral Brief for Roderick Parker - formerly ROI pp. 143-146 (3 pages)
- PX 18 - 908th Airlift Wing Support Flight Civilian Organizational Chart (As of 1 Jan 2007) - formerly ROI p. 186.
- PX 19 - E-mail from Ms. Ray to Colonel Forshey and his response, dated September 12, 2006 - formerly ROI p. 172 (3 pages).
- PX 20 - Annual Salary tables for 2006, 2007, 2008 and 2009 (4 pages).
- PX 21 - Ms. Ray's medical records - formerly ROI Exh. 7 (2 pages).

Wherefore, the foregoing considered, Plaintiff respectfully requests that this Court deny Defendants' Motion to Dismiss and its Motion for Summary Judgment.

Respectfully submitted, this the 7th day of January, 2010.

/s/ Joseph C. Guillot
Joseph C. Guillot (GUI011)

OF COUNSEL:

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CERTIFICATE OF SERVICE

I certify that on this 7th day of January, 2010, I have filed a copy of the foregoing via this Court's electronic filing system which will deliver a copy to the following attorney of record:

Honorable James Dubois
United States Attorney
P.O. Box 197
Montgomery AL 36101-0197

/s/ Joseph C. Guillot
OF COUNSEL